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EXAMINER

PHAM, HUNG Q

ART UNIT PAPER NUMBER

2162

DATE MAILED: 07/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/040,379

Applicant(s)

KONDO ET AL.

Examiner

HUNG Q. PHAM

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

- Claims 7, 11 and 20 have been amended to conform to 35 U.S.C. § 112, first paragraph. The rejection under 35 U.S.C. § 112, first paragraph, of claims 7, 11 and 20 has been withdrawn.

- Applicant's arguments with respect to the rejection under 35 U.S.C. § 102 of claims 1-20 have been fully considered but they are not persuasive.

As argued by applicants

(1) at page 8:

Kinjo discloses that the extracted geometric figures are transformed to numerical data and stored as "accessory information" in a database. (Col. 12, lines 47-52.) Kinjo does not disclose the extraction of image data from a predetermined region of an image.

(2) at page 9:

Kinjo does not disclose using extracted image data as a retrieval key image for comparison with other images.

...

No form of image data comparison is disclosed in Kinjo.

(3) at page 9:

Kinjo only discloses the comparison of tables or lists of geometric shapes. As such, in Kinjo, designating a retrieval key is cumbersome. By contrast, applicants' invention does not require the burden of preprocessing images in the image database. The invention allows a user to designate an area in an image as a retrieval key simply by using a device such as a pointer to select a portion of an image.

Examiner respectfully disagrees.

(1) In response to applicants' argument that *Kinjo does not disclose the extraction of image data from a predetermined region of an image*, examiner respectfully points out that claims 1, 7, 8, 11, 12, 15, 16 and 20 do not specify how to extract image data to distinguish the claimed invention over Kinjo technique. Therefore, numerical data obtained by transforming the extracted areas of a picture, e.g., FIG. 1, still meets the requirement of the claimed *extracting image data from a predetermined region of at least one of said items of image data registered in said image database*.

(2) In response to applicants' argument that *Kinjo does not disclose using extracted image data as a retrieval key image for comparison with other images*, examiner respectfully refers applicants to the Kinjo teaching at Col. 13, Lines 45-54. As taught by Kinjo, the designated searching pattern 20, e.g., circles, triangles and rectangles, is input as a searching condition, the original image to be searched is read from its database and compared with the designated searching pattern 20. As discussed above, the result of extracting is position, size and direction as *image data*. In short, the Kinjo technique indicates *using extracted image data as a retrieval key image for comparison with other images*.

(3) In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., *applicants' invention does not require the burden of preprocessing images in the image database. The invention allows a user to designate an area in an image as a retrieval key simply by using a device such as a*

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pointer to select a portion of an image) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

In view of the above, examiner contends that all limitations as recited in the claims have been addressed in this Action.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

As in claims 1, 7, 8, 11, 12, 15 the claimed *extracting image data from a predetermined region of at least one of said items of image data registered in said image database, designating said extracted image data as a retrieval key image* was not described in the specification (as in

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paragraph [0011], an extractor for extracting an image of a predetermined region from the image data registered in the image database, a retrieval key image designator for designating the extracted image as an image serving as a retrieval key are disclosed not image data as in the amendment 06/13/2005).

As in claim 21, the claimed *the retrieval key image is extracted by positioning a pointer on a portion of said face and dragging said pointer* was not described in the specification.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 7, 8, 11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As in claims 1, 7, 11, *image data* in the clause *at least one other item of image data* refers to a plurality of image data, e.g., *image data from a predetermined region* and *image data registered in said image database*. It is unclear what *image data* is being referenced.

As in claim 8, *image data* in the clause *more than one other item of image data* refers to a plurality of image data, e.g., *image data from said plurality of items of image data registered in said image database*. It is unclear what *image data* is being referenced.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-20 and 22 are rejected under 35 U.S.C. 102(e) as being anticipated by Kinjo [USP 6,813,395 B1].

Regarding claim 1, Kinjo teaches an image data retrieval apparatus for retrieving desired image data from an image database (Col. 10, Lines 34-39). The Kinjo apparatus includes:

an extractor for extracting image data from a predetermined region of at least one of said items of image data registered in said image database (Col. 10, Lines 45-51 and Col. 13, Lines 16-40);

a retrieval key image designator for designating said extracted image data as a retrieval key image (Col. 13, Lines 45-54);

a retriever for comparing said retrieval key image to at least one other item of image data and retrieving from said image database image data containing an image identical or analogous to said retrieval key image (Col. 13, Lines 50-65).

Regarding claim 7, Kinjo teaches an image data retrieval apparatus and program for retrieving desired image data from an image database (Col. 10, Lines 34-39). The Kinjo program includes the steps of:

referring to a plurality of items of image data registered in an image database, and extracting image data from a predetermined region of at least one of said items of image data (Col. 10, Lines 45-51 and Col. 13, Lines 16-40);

designating said extracted image data as a retrieval key image (Col. 13, Lines 45-54);

comparing said retrieval key image to at least one other item of image data and retrieving from said image database image data containing an image identical or analogous to said retrieval key image (Col. 13, Lines 50-65).

Regarding claim 8, Kinjo teaches an image data retrieval apparatus and program for retrieving desired image data from an image database (Col. 10, Lines 34-39). The Kinjo apparatus includes:

a retrieval key image extractor for extracting image data from said plurality of items of image data registered in said image database (Col. 10, Lines 45-51 and Col. 13, Lines 16-40);

a storage for storing said extracted image data therein (Col. 12, Lines 42-52);

a retrieval key image designator for designating a retrieval key image from the stored extracted image data (Col. 13, Lines 16-25, Lines 45-54);

a retriever for comparing said designated retrieval key image to more than one item of image data and retrieving from said image database more than one item of image data containing an image identical or analogous to said retrieval key image (Col. 13, Lines 50-65).

Regarding claim 11, Kinjo teaches an image data retrieval apparatus and program for retrieving desired image data from an image database (Col. 10, Lines 34-39). The Kinjo program includes the steps of:

extracting image data from a plurality of items of image data registered in an image database (Col. 10, Lines 45-51 and Col. 13, Lines 16-40);

storing in a storage said extracted image data from more than one of said plurality of items of image data (Col. 12, Lines 42-52);

designating a retrieval key image from the stored extracted image data (Col. 13, Lines 16-25, Lines 45-54);

comparing said designated retrieval key image to at least one other item of image data and retrieving from said image database more than one item of image data containing an image identical or analogous to said retrieval key image (Col. 13, Lines 50-65).

Regarding claims 12 and 15, Kinjo teaches an image data retrieval apparatus and program for retrieving desired image data from an image database (Col. 10, Lines 34-39). The Kinjo apparatus includes:

a retrieval key image extractor for extracting image data from said plurality of items of image data registered in said image database (Col. 10, Lines 45-51 and Col. 13, Lines 16-40);

a storage for storing extracted image data from at least two items of image data therein (Col. 12, Lines 42-52);

a retrieval key image designator for designating more than one retrieval key image from the stored extracted image data (Col. 13, Lines 16-25, Lines 45-54);

a retriever for comparing said more than one designated retrieval key image to more than one item of image data and retrieving from said image database image data containing an image identical or analogous to said retrieval key image (Col. 13, Lines 50-65).

Regarding claim 22, Kinjo teaches an image data retrieval apparatus for retrieving desired image data from an image database (Col. 10, Lines 34-39). The Kinjo apparatus includes:

an extractor for extracting an image of a predetermined region from said image data registered in said image database (Col. 10, Lines 45-51 and Col. 13, Lines 16-40);

a retrieval key image designator for designating said extracted image as an image serving as a retrieval key (Col. 13, Lines 45-54);

a retriever for using said retrieval key image to retrieve from said image database image data containing an image identical or analogous to said retrieval key image (Col. 13, Lines 50-65),

wherein said retrieval key image is a partial image having an area of said image data registered in said image database and said retriever compares said retrieval key image and an image having an area of said image data registered in said image database for retrieval (Col. 13, Lines 16-54).

Regarding claims 2, 10, 14 and 18, Kinjo teaches all the claimed subject matters as discussed in claims 1, 9, 13 and 16, Kinjo further discloses *image of said predetermined region is an image of a face of a person* (Col. 10, Lines 61-67).

Regarding claim 3, Kinjo teaches all the claim subject matters as discussed above with respect to claim 1, Kinjo further discloses the step of *designating more than one said retrieval key image* (FIG. 2, Col.10, Lines 39-67).

Regarding claim 4, Kinjo teaches all the claim subject matters as discussed above with respect to claim 1, Kinjo further discloses the step of *extracting more than one said image of said predetermined region from said image data in said image database for storage* (FIG. 2, Col. 10, Lines 39-67, Col. 12, Lines 42-52) and *designating a desired retrieval key image from said more than one image of said predetermined region stored* (Col. 13, Lines 16-25, Lines 45-54).

Regarding claim 5, Kinjo teaches all the claim subject matters as discussed above with respect to claim 4, Kinjo further discloses the step of *retrieving more than one item of image data containing an image identical or analogous to said retrieval key image* (FIG. 5).

Regarding claim 6, Kinjo teaches all the claim subject matters as discussed above with respect to claim 4, Kinjo further discloses the step of *designating more than one retrieval key image* (Col. 13, Lines 16-25, Lines 45-54).

Regarding claim 9, Kinjo teaches all the claim subject matters as discussed above with respect to claim 8, Kinjo further discloses the step of *extracting an image of a predetermined region included in said image data registered* (Col. 10, Lines 34-51).

Regarding claim 13, Kinjo teaches all the claim subject matters as discussed above with respect to claim 12, Kinjo further discloses the step of *extracting an image of a predetermined region included in said image data registered* (Col. 10, Lines 34-51).

Regarding claim 16, Kinjo teaches all of the claimed subject matter as discussed above with respect to claim 1, Kinjo further discloses
an image obtainer for obtaining information corresponding to an image (Col. 12, Lines 40-47);

a table for having recorded therein said information and an image serving as a retrieval key, correlated with each other (TABLE 1, Col. 13);

a converter for referring to said table to convert said information to a retrieval key image (Col. 12, Line 47-Col. 13, Line 15).

Regarding claim 17, Kinjo teaches all of the claimed subject matter as discussed above with respect to claim 16, Kinjo further discloses the technique of *obtaining more than one item of information* (Col. 12, Lines 40-47).

Regarding claim 19, Kinjo teaches all of the claimed subject matter as discussed above with respect to claim 18, Kinjo further discloses the technique of *obtaining information in a form of a name of a person* (Col. 12, Lines 23-35).

Regarding claim 20, Kinjo teaches all of the claimed subject matter as discussed above with respect to claim 7, Kinjo further discloses:

obtaining information corresponding to an image (Col. 12, Lines 40-47);

converting said information to a retrieval key image with reference to a table having recorded therein said information and the retrieval key image, correlated with each other (TABLE 1, Col. 12, Line 47-Col. 13, Line 15).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to

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consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kinjo [USP 6,813,395 B1] in view of Barber et al. [5,751,286].

Regarding claim 21, Kinjo teaches all of the claimed subject matter as discussed above with respect to claim 2, but does not explicitly teach *the retrieval key image is extracted by positioning a pointer on a portion of said face and dragging said pointer*. Barber teaches the technique of dragging an object of an image for querying (Barber, Col. 9, Lines 1-4). It would have been obvious for one of ordinary skill in the art at the time the invention was made to use the technique of drag and drop to indicate a query in order to search for a particular face's object.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to HUNG Q. PHAM whose telephone number is 571-272-4040. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, JOHN E. BREENE can be reached on 571-272-4107. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



HUNG Q PHAM
Examiner
Art Unit 2162

July 25, 2005



MOHAMMAD ALI
PRIMARY EXAMINER